

HOUSE BILL 349

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2lr1015

By: **Delegates Clippinger, Wilson, Anderson, Arora, Dumais, Glenn, Guzzone, Hough, A. Kelly, Lee, Luedtke, McComas, McDermott, A. Miller, Parrott, Simmons, Smigiel, Valentino-Smith, and Waldstreicher**

Introduced and read first time: January 30, 2012

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Criminal Law – Misdemeanor Possession of Child Pornography – Statute of**
3 **Limitations**

4 FOR the purpose of altering the period of time within which a prosecution for
5 misdemeanor possession of child pornography must be instituted after the
6 offense was committed; and generally relating to the statute of limitations for
7 misdemeanor possession of child pornography.

8 BY repealing and reenacting, without amendments,
9 Article – Courts and Judicial Proceedings
10 Section 5–106(a)
11 Annotated Code of Maryland
12 (2006 Replacement Volume and 2011 Supplement)

13 BY adding to
14 Article – Courts and Judicial Proceedings
15 Section 5–106(bb)
16 Annotated Code of Maryland
17 (2006 Replacement Volume and 2011 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article – Criminal Law
20 Section 11–208
21 Annotated Code of Maryland
22 (2002 Volume and 2011 Supplement)

23 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
24 MARYLAND, That the Laws of Maryland read as follows:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Courts and Judicial Proceedings**

2 5–106.

3 (a) Except as provided by this section and § 1–303 of the Environment
4 Article, a prosecution for a misdemeanor shall be instituted within 1 year after the
5 offense was committed.

6 **(BB) A PROSECUTION FOR A MISDEMEANOR OFFENSE UNDER § 11–208**
7 **OF THE CRIMINAL LAW ARTICLE SHALL BE INSTITUTED WITHIN 3 YEARS AFTER**
8 **THE OFFENSE WAS COMMITTED.**

9 **Article – Criminal Law**

10 11–208.

11 (a) A person may not knowingly possess and intentionally retain a film,
12 videotape, photograph, or other visual representation showing an actual child under
13 the age of 16 years:

14 (1) engaged as a subject of sadomasochistic abuse;

15 (2) engaged in sexual conduct; or

16 (3) in a state of sexual excitement.

17 (b) (1) Except as provided in paragraph (2) of this subsection, a person
18 who violates this section is guilty of a misdemeanor and on conviction is subject to
19 imprisonment not exceeding 5 years or a fine not exceeding \$2,500 or both.

20 (2) A person who violates this section, having previously been
21 convicted under this section, is guilty of a felony and on conviction is subject to
22 imprisonment not exceeding 10 years or a fine not exceeding \$10,000 or both.

23 (c) Nothing in this section may be construed to prohibit a parent from
24 possessing visual representations of the parent's own child in the nude unless the
25 visual representations show the child engaged:

26 (1) as a subject of sadomasochistic abuse; or

27 (2) in sexual conduct and in a state of sexual excitement.

28 (d) It is an affirmative defense to a charge of violating this section that the
29 person promptly and in good faith:

30 (1) took reasonable steps to destroy each visual representation; or

1 (2) reported the matter to a law enforcement agency.

2 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
3 October 1, 2012.